

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. 3:19-cv-00012
)	
v.)	
)	
MARBLE ARMS CORP GAME)	
GETTER COMBINATION)	
CAL: .22/.410 SN: 15422,)	
)	
Defendant.)	

VERIFIED COMPLAINT *IN REM*

Plaintiff, the United States of America, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF THE ACTION

1. This is an action to forfeit property to the United States pursuant to 26 U.S.C. § 5872(a).

DEFENDANT *IN REM*

2. The United States seeks to forfeit the following Defendant Property, a Marble Arms Corp, Game Getter, rifle/shotgun combination, caliber .22/.410, bearing serial number 15422.

JURISDICTION AND VENUE

3. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the Defendant Property under 28 U.S.C. § 1355(b) and § 1395(b) because the acts or omission giving rise to the forfeiture occurred in this district and because the Defendant Property was seized from and located in this district. The

Defendant Property is in the possession of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

BASIS FOR FORFEITURE

5. The Defendant Property is subject to forfeiture pursuant to 26 U.S.C. § 5872(a) as a firearm involved in or used in a knowing violation of 26 U.S.C. § 5861(d). Pursuant to 26 U.S.C. § 5861(d), it is unlawful for a person to be in possession of an unregistered National Firearms Act (NFA) weapon.

FACTS

6. In September of 2018, law enforcement conducted an Industry Operations Inspection on Donald Diehl.

7. Diehl was, and had for some time been, a licensed firearms dealer.

8. During the inspection, law enforcement discovered Diehl was in possession of the Defendant Property, a Marble Game Getter, .410/.22 caliber (SN 15422), which was and is subject to certain requirements under the National Firearm Act.

9. Specifically, the Defendant Property was and is subject to the requirements of 26 U.S.C. § 5861(d), which states “It shall be unlawful for any person . . . to . . . possess a firearm (as defined in 26 U.S.C. § 5845) which is not registered to him in the National Firearms Registration and Transfer Record.”

10. A check of NFA records revealed that the Defendant Property was then registered to another individual, “GM III,” in Arkansas, not Diehl.

11. On or about October 2, 2018, ATF made contact with “GM III.” He stated he recalled having several firearms that he sold in Oklahoma a few years ago.

12. Diehl has stated he had purchased the Defendant Property at a gun show in Tulsa.

13. Diehl was informed that he could not possess the Defendant Property because of it being unregistered.

14. On or about October 5, 2018, ATF made contact with Diehl in Coralville, Iowa. Diehl agreed to turn over the Defendant Property to agents at that time. A property receipt was left with Diehl.

15. Diehl contested ATF's attempted administrative forfeiture of the Defendant Property.

16. In his claim, attested to under penalty of perjury, Diehl stated he purchased the Defendant Property for \$1,300 on April 10, 2014 in Tulsa, Oklahoma. He admitted he did not "obtain transfer papers" for the firearm. He said it had remained in his "gun room" since approximately that time, until it was seized by ATF.

17. Under 26 U.S.C. § 5872, any firearm involved in a violation of 26 U.S.C., Chapter 53 is subject to seizure and forfeiture.


18. By reason of the facts set forth herein, the Defendant Property is subject to forfeiture under 26 U.S.C. § 5872, and 18 U.S.C. § 983.

CLAIM FOR RELIEF

For the reasons set forth above, the Defendant Property should be forfeited to the United States as property that was involved or used in a knowing violation of 26 U.S.C. § 5861(d).

Respectfully submitted,

Marc Krickbaum
United States Attorney

By:  /s/ Craig Peyton Gaumer

Craig Peyton Gaumer
Assistant United States Attorney
U. S. Courthouse Annex, Suite 286
110 East Court Avenue
Des Moines, Iowa 50309
Tel: (515) 473-9317
Fax: (515) 473-9292
Email: craig.gaumer@usdoj.gov

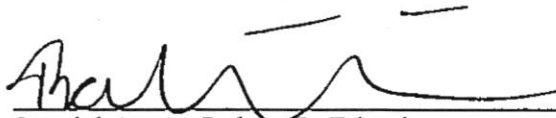
VERIFICATION

I, Robert B. Friend, state that I am a Special Agent with the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF), I have read the foregoing Verified Complaint *In Rem* and know its contents, and that the matters contained in the Verified Complaint are true and correct to the best of my knowledge.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, and information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as an ATF Special Agent.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated: February 4th, 2019.



Special Agent, Robert B. Friend
Bureau of Alcohol, Tobacco, Firearms & Explosives